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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AUDLEY BARRINGTON LYON, JR., et. al.,
Plaintiffs,
v.
UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT, et. al.,
Defendants.

Case No.: 13-cv-05878 EMC

**JOINT STIPULATION REGARDING
SUBSTITUTION OF DEFENDANTS'
EXPERT WITNESS; ~~PROPOSED~~
ORDER**

(modified)

CLASS ACTION

The Parties to this action hereby agree to the following and seek an order permitting Defendants to substitute their expert witness and allow Plaintiffs to seek permissible discovery from the substitute expert. As good cause for this request, the Parties state the following:

The deadline to complete expert discovery was January 11, 2016. *See* Dkt. No. 140. The parties had arranged for Plaintiffs to depose Defendants' expert witness Michael Hackett on January 11, 2016. The week before the scheduled deposition, Mr. Hackett informed Defendants that he was dealing with a family medical crisis. Several days before the deposition, Mr. Hackett

1 informed Defendants that he had just learned that the medical issue was serious enough that he
 2 had to withdraw from the case. Defendants have confirmed with Mr. Hackett that he continues
 3 to be unavailable. Because Mr. Hackett was forced to withdraw based on a recently-discovered
 4 and very serious medical condition of an immediate family member for whom he continues to be
 5 the primary caretaker, good cause exists to extend expert discovery and allow Defendants to
 6 substitute experts.

7 Defendants immediately proposed to Plaintiffs that the Parties jointly move to allow
 8 Defendants to designate a substitute expert, and seek to extend both expert discovery and the
 9 briefing schedule for the Parties' cross-motions for summary judgment so that Plaintiffs would
 10 have sufficient time to depose the substitute expert before responding to Defendants' Cross-
 11 Motion for Summary Judgment. Plaintiffs, however, did not want to disturb the briefing
 12 schedule and instead proposed that, if this case was not resolved at the summary judgment stage
 13 and Mr. Hackett remained unavailable, Plaintiffs would agree at that time that Defendants could
 14 proffer a substitute expert for trial as long as the substitute expert's opinions did not expand upon
 15 or differ from Mr. Hackett's opinions, did not rely on facts or materials that Mr. Hackett did not
 16 review, and that Plaintiffs were given an adequate opportunity to conduct expert discovery.

17 The trial in this case is scheduled to begin on May 23, 2016. *See* Dkt. No. 96. To
 18 provide Plaintiffs with ample opportunity to conduct expert discovery, the Parties propose that
 19 (1) Defendants be permitted to substitute Mr. Richard Bryce for Mr. Michael Hackett as rebuttal
 20 expert in this case, (2) expert discovery be reopened solely for the purpose of allowing Plaintiffs
 21 to serve document requests on and depose Defendants' substitute expert on or before April 22, ¹⁵
 22 2016, and (3) the motion in limine deadline for any challenge Plaintiffs may have to Defendants'
 23 proposed substitute expert ~~be extended to May 5, 2016.~~ will be discussed at the April 19, 2016
 24 Pretrial Conference.

24 This reopening of expert discovery until April 22, 2016, is limited to Defendants'
 25 substitute expert witness and will not affect any of the other current deadlines in this case.
 26
 27
 28

1 Dated: March 15, 2016

OFFICE OF IMMIGRATION LITIGATION,
CIVIL DIVISION
U.S. DEPARTMENT OF JUSTICE

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16 Dated: March 15, 2016

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I, Brian C. Ward, am the ECF user whose user ID and password are being used to file this Stipulation. In accordance with Local Rule 5-1(i)(3), I hereby attest that the other signatories listed here have concurred in the filing of this document.

Dated: March 15, 2016

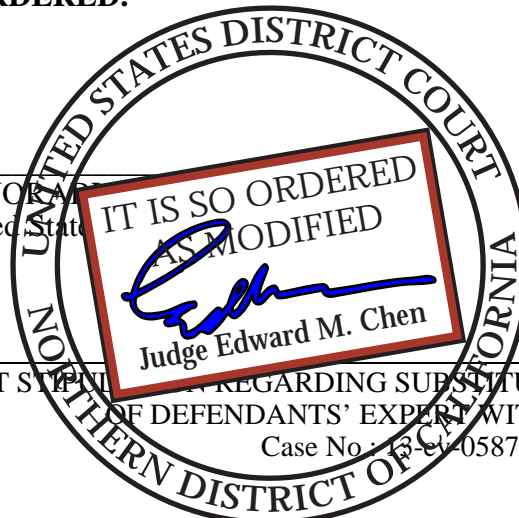
By: /s/ Brian C. Ward
BRIAN C. WARD

~~[PROPOSED]~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. (as revised above)

Dated: March 16, 2016

HONORABLE
United States



JOINT STIPULATION REGARDING SUBSTITUTION
OF DEFENDANTS' EXPERT WITNESS
Case No. : 13-cv-05878 EMC

CERTIFICATE OF SERVICE

No. 3:13-cv-05878-EMC

I hereby certify that on this 15th day of March 2016, a true and correct copy of the foregoing **JOINT STIPULATION REGARDING SUBSTITUTION OF DEFENDANTS' EXPERT WITNESS** was served with the Clerk of Court by using the CM/ECF system, which provided an electronic notice and electronic link of the same to all attorneys of record through the Court's CM/ECF system.

By: /s/ Brian C. Ward
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